

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 05-30111-MAP

James V. Cariddi,)	
Plaintiff)	
)	
v.)	AFFIDAVIT OF
)	CHRISTOPHER B. MYHRUM,
)	ESQUIRE
Consolidated Aluminum Corporation,)	
Defendant)	

I, Christopher B. Myhrum, Esquire, state as follows:

1. I am counsel for Plaintiff, James V. Cariddi. I make this affidavit to put a sworn statement and pages of a deposition transcript before the Court for purposes of the Motion of Defendant, Consolidated Aluminum Corporation (“Conalco”), for Summary Judgment and Plaintiff’s Cross-Motion for Summary Judgment.

2. Attached as Exhibit A is a true and accurate copy of the sworn statement of Norman R. Lappies dated September 10, 2003. This statement appears at Tab A of Exhibit D to the Complaint in this matter.

3. Attached as Exhibit B are pages 1–7, 12–15, 68-73, 86, 145, 152, 160 and 167–187 of the Deposition of Norman R. Lappies.

I state under penalty of perjury that the foregoing is true and correct this first day of May, 2006.

/s/ Christopher B. Myhrum
Christopher B. Myhrum

Certificate of Service

I, Christopher B. Myhrum, hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Christopher B. Myhrum
Christopher B. Myhrum

EXHIBIT A

STATEMENT OF NORMAN LAPPIES
REGARDING OPERATIONS OF
CONSOLIDATED ALUMINUM CORPORATION
AND ITS PREDECESSORS AT
506-508 STATE ROAD, NORTH ADAMS, MA
(DEP RELEASE TRACKING NUMBER 1-13902)

I, Norman R. Lappies, state as follows:

1. I was born on June 23, 1940.
2. I reside at 155 River Road, Clarksburg, Massachusetts.
3. I began working at the facility located at 506-508 State Road, North Adams, Massachusetts ("Facility") as a machine operator for the Pfister Aluminum Tubing Corporation ("Pfister," a.k.a. Pfister Manufacturing Corporation) in 1961.
4. I continued working at the Facility after the business was acquired first by Phelps Dodge Aluminum Products Corp. ("Phelps Dodge") and subsequently by Consolidated Aluminum Corporation ("Conalco"). (Pfister, Phelps Dodge and Conalco are hereinafter referred to collectively as the "Former Operators.")
5. During the course of my employment by the Former Operators, the operations at the Facility did not change materially as ownership of the Facility changed.
6. During my continuous period of employment by the Former Operators, I was promoted initially to Foreman and then to Plant Manager.
7. I was Plant Manager for Conalco when it decided to close the Facility in 1976 and I continued in that position until approximately one month prior to the final closing.
8. The primary activity conducted by the Former Operators was the drawing of aluminum tubing down to smaller diameters. In addition, there were fabrication operations that involved the cutting and machining of aluminum.
9. I have been informed that the presence of oil in the basement of the building has been reported to the Massachusetts Department of Environmental Protection ("DEP"), which assigned the Release Tracking Number 1-13902 to the release. My understanding is that the area where the most oil has been found is located inside and around the outside of a cinder block room west of the stairs descending into the basement from the first floor behind (south of) the current offices of Cariddi Sales Co. This cinder block room was called the Generator Room when I worked there and previously contained electrical equipment.
10. Throughout the roughly 15 years I worked at the Facility, there were drawing machines located on the first floor of the Facility directly above the Generator Room in the basement.
11. The drawing of aluminum required the use of large quantities of drawing oil to lubricate the dies through which the tubing was pulled. The operation was a messy one.

Oil would splash onto the wood floor from the machinery and also drip onto the floor from lengths of tubing being transferred from one drawing machine to another using an overhead hoist. In addition, there were occasions when oil-filled hoses burst, spraying oil all over the work area.

12. To cope with the continuous regular buildup of oil on the floor, it was routine practice throughout the time I worked at the Facility to have workers come in on Sunday (when most operations were shut down) to remove the waste oil. This was done by applying mineral spirits solvent to the floor to thin the oil and then using squeegees to direct the oil through cracks and holes in the wood floor into the basement below, where it accumulated. To the best of my knowledge and information, waste oil was not shipped to an off-site location while I worked at the Facility.

15. Mineral spirits solvent was also used to clean aluminum and was distilled on site to be reused. The underground storage tank ("UST") located outdoors behind the building to the west of the loading dock was used to store the recycled mineral spirits.

16. Other than mineral spirits, I have no knowledge of other solvents being used at the Facility during my employment. Similarly, I do not know of any other hazardous materials used by the Former Operators. Wastewater discharges by the Former Operators were limited to sanitary wastes from washroom sinks and toilets.

17. Throughout the period of my employment, another business, Modern Aluminum Anodizing ("MAA"), occupied (but did not own) the same building. Prior to the time Conalco closed down its operations, there were agreements with MAA that precluded MAA from doing work for any companies other than the Former Operators. While employed by the Former Operators, I observed MAA's use of hazardous materials and its discharge of process wastes (including acids) to the flume located under the building prior to MAA hooking up to the City sewer system. (My later employment by MAA did not begin until about 1983 and continued for about a year.)

18. There is a hole knocked through the wall of the basement opening into the flume. This hole was already there when I began working for Pfister.

19. There is a concrete structure in the basement located north of the hole into the flume, which appears to be an open-top process tank. It also was there when I began working for Pfister, but was not in use then.

20. The foregoing statements are made based upon my personal knowledge, except as to those stated to be made upon information and belief, and as to such statements, I believe them to be true to the best of the information available to me.

Under penalty of perjury, I declare the foregoing to be true and accurate.

9/10/03
(Date)

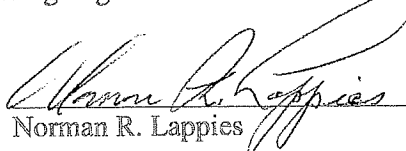

Norman R. Lappies

EXHIBIT B (Part 1 of 3)

COMMONWEALTH OF MASSACHUSETTS

Berkshire, ss. Department of the Trial Court
Superior Court
Civil Action No. BECV2004-00214
Pages 1-206

IN THE MATTER OF: PETITION
OF CONSOLIDATED ALUMINUM
CORPORATION TO PERPETUATE
THE TESTIMONY OF NORMAN R. LAPIES

COPY

DEPOSITION OF: NORMAN R. LAPIES, taken
before Heather J. Davis, Certified Shorthand
Reporter and Notary Public, pursuant to Rule 30
of the Massachusetts Rules of Civil Procedure,
at the offices of CAIN, HIBBARD, MYERS & COOK,
66 West Street, Pittsfield, Massachusetts on
September 29, 2004, commencing at 10:02 AM.

APPEARANCES:

(SEE PAGE TWO)

Heather J. Davis
Registered Merit Reporter

DAVIS & MITCHELL
P.O. Box 1367
Pittsfield, MA 01202
Tel. (413) 499-0035 Fax (413) 499-7823

DAVIS & MITCHELL
(413) 499-0035

1 MR. COX: With respect to
2 stipulations, I'd like to have the witness
3 read and sign so I don't want to waive that.

4 MR. MYHRUM: I agree.

5 MR. COX: I think we can agree
6 to have him sign it in front of any notary.

7 MR. MYHRUM: If that's
8 convenient. Do you have a notary convenient
9 to you up in Clarksburg?

10 THE WITNESS: Oh, sure. North
11 Adams.

12 MR. COX: Yeah.

13 MR. MYHRUM: I'm just aware of
14 impositions already. And what about waive
15 motions to strike?

16 MR. COX: Of course. I think
17 that's already there.

18 MR. MYHRUM: Motions and
19 objections?

20 MR. COX: Yes.

21 MR. MYHRUM: Except as to
22 form.

23 MR. COX: Yes.

24 S T I P U L A T I O N S

APPEARANCES:

BOWDITCH & DEWEY, LLP, 311 Main Street, P.O. Box
15156, Worcester, Massachusetts, 01201
representing the Consolidated Aluminum.
BY: ROBERT D. COX, JR., ESQUIRE

BULKLEY RICHARDSON & GELINAS, 1500 Main Street,
P.O. Box 15507, Springfield, Massachusetts,
01115, representing Cariddi.
BY: CHRISTOPHER B. MYHRUM, ESQUIRE

I N D E X

WITNESSES: DIRECT CROSS REDIRECT RECROSS

NORMAN LAPIES 6

EXHIBITS: DESCRIPTION PAGE

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It is agreed by and between the parties that all objections, except objections as to the form of the question, are reserved to be raised at the time of trial for the first time.

It is further agreed by and between the parties that all motions to strike unresponsive answers are also reserved to be raised at the time of trial for the first time.

It is further agreed that the deponent will not waive the reading and signing of the deposition and the sealing of said deposition will be waived.

It is further agreed by and between the parties that notification to all parties of the receipt of the original deposition transcript is also hereby waived.

NORMAN R. LAPPES, the Deponent,
having been first identified by license and duly

1 sworn, deposes and says as follows:

2

3

DIRECT EXAMINATION BY MR.COX

4

5

Q. (BY MR. COX) Would you please state
your full name?

6

A. My name is Norman R. Lappies.

7

Q. And where do you live, Mr. Lappies?

8

A. 155 River Road, Clarksburg, Mass.

9

Q. And you're here this morning
pursuant to a subpoena that was issued to you?

11

A. Excuse me?

12

Q. You're here pursuant to a subpoena
that was issued to you?

14

A. Yes.

15

Q. Is this a copy of the subpoena that
you received?

17

A. Yes.

18

Q. Do you have your copy?

19

A. Yes, sir.

20

Q. Okay. I'm going to mark this as
Exhibit 1. And let's mark as 2 a Notice Of
Taking Deposition.

23

24

(Exhibit Numbers 1 & 2
offered and marked for
identification)

1 Q. (BY MR. COX) Did you also receive a
2 Notice of Taking Deposition?

3 A. Yes, sir.

4 Q. Mr. Lappies, my name is Bob Cox,
5 I'm an attorney for Consolidated Aluminum
6 Corporation, or Conalco, as I believe you would
7 know it. Conalco has received a notice letter
8 from James V. Cariddi, a notice letter that was
9 issued pursuant to Chapter 21E in our state
10 law. That notice letter sets forth a claim for
11 cleanup costs, past cleanup costs and future
12 cleanup costs, associated with contamination
13 that has been found at the Cariddi property.
14 That notice included a copy of an affidavit
15 that you provided in September of last year,
16 and it was appended to Mr. Cariddi's notice
17 letter, or the letter that was sent on behalf
18 of Mr. Cariddi in support of Mr. Cariddi's
19 claims.

20 During this proceeding I'm
21 going to ask you a series of questions
22 relating to your affidavit or relating to
23 your observations of the facility that you've
24 worked at for fifteen years. And when I'm

1 Q. Any education or training programs
2 that you participated in after you went to high
3 school?

4 A. Pertaining to what?

5 Q. Anything. Your career, your work,
6 night school, trade school?

7 A. Just on-the-job training, that's
8 all.

9 Q. On-the-job training?

10 A. Mm-hmm.

11 Q. Now, you grew up on a farm, worked
12 on a farm?

13 A. Quit, got married.

14 Q. Quit, got married. When did you
15 quit and get married?

16 A. At 18. 1958.

17 Q. 1958. And referring to your
18 affidavit, you state that you started working
19 at the facility in North Adams?

20 A. '61.

21 Q. '61. So tell me what you did
22 between 1958 and 1961 for work.

23 A. Construction.

24 Q. What type of construction?

1 A. Drove truck.

2 Q. Anything else?

3 A. No.

4 Q. Drove a truck?

5 A. Yup. Construction. Supported my
6 family.

7 Q. Okay. Who did you work for?

8 A. I worked for John Kroll in
9 Cheshire, construction. Worked for Conway
10 Construction. Worked for Bianchi Construction.

11 Q. And all the work was driving a
12 truck?

13 A. Yes.

14 Q. Did you get a class 3 license?

15 A. You didn't need them then. All you
16 need to do is show up and work.

17 Q. That's what we need. Now, at the
18 time you first worked at the facility in North
19 Adams, it was owned by Pfister Aluminum --

20 A. Pfister Aluminum.

21 Q. -- Tubing?

22 A. P-F-I-S-T-E-R.

23 Q. Corporation, is that right?

24 A. Yes.

1 Q. And how did it come about that you
2 took a job at that location?

3 A. I had a wife and two young children
4 that were hungry.

5 Q. Apart from your need to have
6 income, how did you learn about the job? How
7 were you qualified for the job?

8 A. Just laid off from construction,
9 out looking for a job so I could support my
10 family. I happened to stop and made an
11 application.

12 Q. And what was the application for?

13 A. Anything. Machine operator.

14 Q. And your affidavit states that you
15 first worked as a machine operator, is that
16 right?

17 A. This affidavit? I don't know what
18 it says.

19 Q. Let me back out. When you first
20 worked for the company you worked as a machine
21 operator?

22 A. Yes.

23 Q. Did you have any training prior to
24 joining the company --

1 A. No.

2 Q. -- as a machine operator?

3 A. No. On-the-job training.

4 Q. On-the-job training. I'm learning.

5 Are you currently employed?

6 A. No. I'm 64 years old. I'm retired.

7 Q. Do you run any businesses?

8 A. I dabble in antiques.

9 Q. Do you have an antique shop?

10 A. I have a little warehouse I work
11 out of.

12 Q. Does it have a name?

13 A. No. It's for sale.

14 Q. Where is the warehouse?

15 A. I work out of my garage most of the
16 time, and I got a little shop down in North
17 Adams I work out of on Houghton Street.

18 Q. Okay. Now, focusing on your
19 employment, your affidavit states that you
20 stopped working in 1976 at the facility, is
21 that right?

22 A. Yeah. They closed.

23 Q. What did you do after that?

24 A. I started a fabricating business

1 them. There was no drains in them.

2 Q. So the oil just stayed in the pan?

3 A. Yeah. Yeah. And after eight
4 hours, they would be overflowing.

5 Q. And they would overflow onto the
6 surface of the floor?

7 A. Onto the floor.

8 Q. Okay.

9 A. And they didn't clean up after --
10 the only time they cleaned these pans are
11 usually on Sundays.

12 Q. Okay.

13 A. You understand, everybody walked in
14 oil.

15 Q. That was working in this area, they
16 were walking in oil?

17 A. The whole area. Everybody walked
18 in oil.

19 Q. Because oil -- just so we're clear
20 here, what you describe with respect to the oil
21 tank --

22 A. Mm-hmm.

23 Q. -- and the hard line piping to
24 provide oil to the head and drain to the

1 head --

2 A. Mm-hmm.

3 Q. -- was a feature that was present
4 in each of the lines?

5 A. Every bench, yes.

6 Q. Every bench?

7 A. Yes.

8 Q. So at bench number two, identical
9 setup was present there, is that right?

10 A. Yes.

11 Q. And at bench number three,
12 identical setup was provided at that bench?

13 A. Well, first of all, that ain't one,
14 two and three. They numbered the benches as
15 they put them in. This is bench number one.
16 Okay? This is bench number three. This is
17 bench number four. This is bench number two.

18 Q. Okay. But not to confuse us too
19 much, the process by which the tubing --

20 A. Right. I got it marked.

21 Q. You have it marked?

22 A. Yup.

23 Q. The numbers are not even in
24 reverse?

1 A. No. Number two draw, number three
2 draw, number one draw. (Indicating)

3 Q. Got it. Okay. With the number
4 three draw, I think you said that a lighter oil
5 was used in connection with that bench.

6 A. Yup.

7 Q. Could you explain that for us?

8 A. The lighter the oil -- because on
9 the finish draw you wanted a bright finish on
10 the tubing, like chrome, so you used the light
11 oils. Sometimes you could mix your oil with
12 kerosene. You could put just a dab of kerosene
13 in the oil and that's how you cheated to get a
14 good shine.

15 Q. Okay.

16 A. What we do is we'd dunk a kerosene
17 rag in a pail of kerosene, or a rag, and put it
18 in the oil, and we'd wrap it around the tube as
19 it was going through the die and make it like
20 chrome.

21 Q. And that would be for the third
22 draw?

23 A. Finish draw.

24 Q. The third draw is the same as the

EXHIBIT B (Part 2 of 3)

1 finish draw?

2 A. Not all the time.

3 Q. Okay.

4 A. I could draw a tube -- I could
5 actually take an inch and three-eighth tube and
6 draw it down to a half inch if you wanted me
7 to.

8 Q. At the first bench?

9 A. I'd have to draw it several times
10 but you could do it several times through the
11 tubing. I could even draw one that looked like
12 you.

13 Q. With respect to the kerosene, was
14 that stored in --

15 A. Kerosene was not a problem. Very
16 seldom used the kerosene. We'd have a pail of
17 kerosene that we'd use for that purpose, you
18 know.

19 Q. To soak a rag?

20 A. Very seldom. It all depended on
21 the product. If it was going to be a hospital
22 product, we wanted a good bright finish so we'd
23 do that.

24 Q. Okay.

1 A. Most of the time -- it caused a lot
2 of trouble because you got a lot of breakage,
3 because we lost the friction of the oil. The
4 rag would rub it off.

5 Q. With respect to the oils that were
6 used, there was a heavier drawing oil?

7 A. And a light drawing oil.

8 Q. And a lighter drawing oil?

9 A. Yes.

10 Q. And I think you said that the oils
11 were put into the tanks --

12 A. Mm-hmm.

13 Q. -- by fifty-five-gallon drums?

14 A. Mm-hmm.

15 Q. You have to say yes.

16 A. Yes. I'm sorry.

17 Q. With what sort of frequencies were
18 the oils put into the tanks?

19 A. It depended on how much you lost
20 transporting tubing from bay to bay, how much
21 went on the floor. If a line broke, you lost
22 your whole tank. It fluctuated from day to
23 day, from hour to hour. You could put up to
24 two hundred gallons a day in a tank or you

1 might go two days and put one barrel in. You
2 couldn't --

3 Q. And, I'm sorry, I missed it, what
4 is the variable, that if it would break --

5 A. If an oil line broke -- we had oil
6 lines that went to the inside of the rods,
7 they'd come from the tanks, also. You had
8 three, I told you, three rods, a head full of
9 oil --

10 Q. Yes.

11 A. Well, they were rubber lines
12 because they had to move with the rods. If
13 them lines broke, you had oil spraying, there
14 would be oil dripping off the ceiling.

15 Q. All right. So you need to give us
16 more detail of that oil application mechanism.
17 This is to provide oil to the interior of the
18 tube?

19 A. Yes.

20 Q. And you described before that you
21 drill a hole in the tube?

22 A. You had rods, three rods, inside of
23 the pipes, of say three-inch diameter pipes,
24 three-and-a-half-inch diameter pipes.

1 A. Exactly.

2 Q. -- to the other cranes over the
3 drawing benches, is that right?

4 A. That's right.

5 Q. And the product would be brought
6 over to the quench -- do you call them quench
7 tanks?

8 A. No. I call them wash tanks.

9 Q. Wash tanks. Would be brought over
10 to the wash tanks and dipped into the wash
11 tanks?

12 A. Mm-hmm. Yes.

13 Q. For five or ten minutes?

14 A. Soaked, yup.

15 Q. And the purpose of the soaking was
16 to remove the oil --

17 A. From the inside of the tubing.

18 Q. -- from inside the tubes?

19 A. And the other side of the tubing.
20 Inside and outside. And saw chips.

21 Q. And when you say saw chips, what do
22 you mean?

23 A. From the saw when they cut them,
24 because they would stick to the oil.

1 slipped out of your hand, they'd fall down them
2 holes in the basement. So every day, yeah, you
3 were probably down the basement retrieving a
4 pipe wrench.

5 Q. And the machines we're talking
6 about are over here? (Indicating)

7 A. Are the benches.

8 Q. Are the benches?

9 A. Yes.

10 Q. So you'd go in the basement?

11 A. To try to find your pipe wrenches,
12 sure. But you had to watch where you walked
13 because there was lakes down there.

14 Q. Now explain that.

15 A. All the oil that was in the
16 basement, they used to dig like ditches to
17 divert the oil into like little ponds in the
18 basement.

19 Q. Okay.

20 A. So people wouldn't, when you were
21 down getting your tools, employees wouldn't get
22 hurt down there, if you'd fall in. Some of
23 them holes were deep.

24 Q. Tell me about the ditch digging.

1 they'd wheel it in in wheelbarrows, that's how
2 they'd pour it.

3 Q. What you described, what I had you
4 describe, of going in the basement was in 1961,
5 is that right?

6 A. Yes.

7 Q. Did the conditions in the basement
8 that you described with respect to oil dripping
9 change?

10 A. No.

11 Q. Constant throughout the time period
12 that you were there?

13 A. Of course. The oils on the
14 machines never changed. The breakage on the
15 lines, it never changed.

16 Q. And the nature of the oils, or the
17 type of oils that were dripping through into
18 the basement, were the drawing oils from the
19 bench area?

20 A. Yes. Yes.

21 Q. With respect to the basement, in
22 your affidavit you refer to a flume, a flume
23 structure.

24 A. Yes.

1 Q. Can you tell us briefly where that
2 is located underneath the floor plan that you
3 sketched here?

4 A. It's a canal. That factory used to
5 run by water power when it was built. You call
6 it a flume, I call it a canal.

7 Q. Okay. When you arrived in 1961,
8 was it a working canal?

9 A. There was water there.

10 Q. Was there water running through it?

11 A. Some, yeah. Probably still is. I
12 don't know. I haven't been down there in forty
13 years.

14 Q. When was the last time you were in
15 the basement?

16 A. Probably before the mill closed.
17 '75 or so. I don't know. I don't make a habit
18 of going to visit that basement.

19 Q. With respect to the basement, you
20 described going down to retrieve wrenches.

21 A. Right.

22 Q. Were there other activities taking
23 place in that basement? Any employees working
24 in the basement?

1 of any occasions when the sprinkler system
2 discharged water and thereby flooded the
3 basement?

4 MR. MYHRUM: Object to the
5 form of the question. You may answer.

6 Q. (By MR. COX) Go ahead.

7 A. No, not flooding the basement, but
8 there was an occasion where the sprinklers went
9 off and a lot of water would have run, but
10 not -- the factory caught on fire. One of the
11 generators shorted out, caught -- you
12 understand now, this mill was saturated with
13 mineral spirits, this area, a spark flew from
14 the generator, it just went poof, and there was
15 flames. The ceiling was on fire, the whole
16 place was on fire, all the oil is burning.
17 People were screaming, running out through the
18 doors, the windows. They had big huge fire
19 extinguishers there on wheels, two on a cart.
20 I grabbed a guy by his neck as he's going by me
21 and I told him to push the cart. We got in
22 there and we went through about three of them,
23 we put the fire out. There was a lot of
24 damage, all the sprinklers went off, but I

1 A. No, we didn't use machine oil.

2 Q. Do you know whether cutting oil was
3 used?

4 A. We didn't use cutting oil, neither.

5 Q. You did not use cutting oil?

6 A. We had lubricants for the saw but
7 it was a mixture of water and soap like for the
8 saws. It wasn't a cutting oil. And it
9 recycled itself. Just spray it on and it
10 recycled itself.

11 Q. Okay.

12 A. Everything had to be lubricated.
13 We didn't use no cutting oils, that I'm aware
14 of, when I was there. Maybe the last month
15 they used some, I don't know. God only knows.

16 Q. I'm going to another topic. Have
17 you worked at other shops or locations where
18 oils were used?

19 A. No.

20 Q. This is the only place?

21 A. Yes.

22 Q. Never been around machining
23 operations where machines were cutting metal?

24 A. No.

1 Q. Never been into a facility where
2 machining operations were cutting metal?

3 A. I've been into machine shops.

4 Q. You've been in machine shops?

5 A. I've been in machine shops but I
6 didn't pay much attention to what oils they
7 were using. Didn't care.

8 Q. Okay. I want to return now to the
9 oil on the floor, on the first floor. You've
10 described on several occasions what was on the
11 floor near the drawing machines, the drawing
12 oil?

13 A. Yeah, okay.

14 Q. And you described how on Sundays
15 periodically the oil was cleaned up?

16 A. Right.

17 Q. And then on occasion, when you knew
18 folks from St. Louis would come out --

19 A. We'd shut the whole mill down and
20 do a cleanup. You had to clean your work
21 station.

22 Q. The cleanup activities with respect
23 to the first floor, how long would they take to
24 complete?

1 A. Probably four or five hours. You
2 had to move metal, you had to move racks, you
3 had to move saw horses. You had to get the
4 stuff out of the aisles so you could clean the
5 floors.

6 Q. Okay. The floor cleaning
7 operations took place where you've shown here,
8 where the benches are on Exhibit 8?

9 A. Yes.

10 Q. And before you could get to the
11 floor, you had to move equipment around?

12 A. Not equipment. Aluminum.
13 Aluminum, the racks they were stored in, saw
14 horses that were in the way.

15 Q. Saw horses were there in front of
16 the saw?

17 A. They were in back of the saws but
18 that the bundles went on.

19 Q. Okay.

20 A. Like your saw was here, the saw
21 horses would be up through this way. Because
22 the bundles would come off the bench and have
23 to be put on the saw horses so they could cut
24 them. (Indicating)

1 Q. Okay.

2 A. We'd have to move a lot of stuff.

3 Q. And you personally were involved in
4 these cleaning activities?

5 A. When Pfister was there. Not later
6 on, no. I didn't have to clean nothing.

7 Q. And employees volunteered to do
8 this on Sunday, is that what I understood you
9 to say?

10 A. When I worked for Pfister, you
11 volunteered, because it was extra money.

12 Q. Overtime?

13 A. Yes. They were asked to do it.
14 They asked, does anybody want to volunteer to
15 work Sunday, and you raised your hand.

16 Q. Okay. So take us through the
17 process of cleaning the floor. First you move
18 the --

19 A. You move the aluminum.

20 Q. You move the saw horses?

21 A. You move the saw horses. We had
22 racks, pipes. We had a piece of angle iron,
23 say it was about eight-feet long, and every
24 three feet you had a pipe welded to it that

1 made a rack.

2 Q. Yup.

3 A. And they were like this high.

4 About four feet high. (Indicating)

5 Q. Okay.

6 A. And you put the bundles in them.

7 You'd have to take all the bundles out of the
8 racks, move the steel racks, move the horses
9 from the saws. We literally cleaned everything
10 out of the bay. Then we would get pails of
11 solvent out of the tank.

12 Q. So you'd dip a pail right into the
13 tank and pull it out?

14 A. Sure. Pull it out, spread it on
15 the floor.

16 Q. And spread it on the floor, you
17 were using a motion as if you're throwing --

18 A. We dumped the pail on the floor, of
19 the solvent. Took mops, tried to get -- we'd
20 scrub the floor with the solvent, get the oil
21 off the floor the best we could, dunking the
22 mops in regular mop pails, you know, wringing
23 them out, with solvent in the pails.

24 Q. Yup.

1 A. Mop the floor the best we could.
2 Then take squeegees and squeegee the whole
3 floor all the way down, all the way down the
4 bay, and everything went right into the cellar.

5 Q. All right. And during the time
6 that you did this the squeegeeing activity was
7 all toward one direction?

8 A. Towards the generator room. From
9 the back to the front. Always from the back to
10 the front. Because all your pans were coming
11 in this way, your oil pans. We cleaned the
12 pans, we'd clean everything.

13 Q. Okay. Help me out on the pans.

14 A. The pans are underneath the draw
15 benches. I told you, they are an inch and a
16 half high.

17 Q. So you'd clean those out as well?

18 A. Oh, yes, sure.

19 Q. How would you clean out the pans?

20 A. Squeegee them out, mop them out
21 with solvent afterwards.

22 Q. Could you move the pans, lift the
23 pans?

24 A. Oh, no, no.

EXHIBIT B (Part 3 of 3)

1 Q. So you put solvent in the pans?

2 A. We'd squeegee the oil out the best
3 we could, or mop it out with the mops and the
4 solvent, and then keep mopping until they were
5 spotless. With solvent.

6 Q. So the oil that was in the pans
7 would get solvent, which are mineral spirits --

8 A. Correct.

9 Q. -- put into it, right? That would
10 all get squeegeed out and go into the floor?

11 A. Exactly.

12 Q. And as the floor is cleaned, after
13 it is mopped and you said scrubbed, you mean
14 scrubbed with a mop?

15 A. A big mop, industrial mop. You
16 know.

17 Q. Cloth mop?

18 A. Yeah.

19 Q. After it was mopped, the material
20 would be squeegeed in one direction?

21 A. Exactly.

22 Q. Now, you've depicted here a number
23 of bays, where you have five bays there.

24 A. Exactly.

1 Q. On the bays that were furthest from
2 the generator room, would the direction turn
3 and be squeegeed toward the generator room?

4 A. No, no. Every bay was squeegeed
5 down the bay. You asked me what direction they
6 went. They went in the direction towards the
7 tanks.

8 Q. The direction towards the tanks?

9 A. Right.

10 Q. Was there a wall in the middle of
11 this room, where you have a line separating the
12 benches from where the wash tanks are?

13 A. No. All open.

14 Q. Was there any type of feature on
15 the floor that would contain fluid or liquid
16 that would be on the floor at that location?

17 A. No. All one floor. All connected.

18 Q. With respect to the squeegeeing
19 activities, were there particular holes that
20 were identified for the material to go
21 through --

22 A. No.

23 Q. -- at the end of the bay area?

24 A. No. You mean did I have a hole I

1 liked better so I take that bay? No.

2 Q. Exactly.

3 A. No.

4 Q. Well, were there -- well, there are
5 holes that were constantly used --

6 A. No.

7 Q. -- for squeegeeing material to go
8 through?

9 A. The floor was full of holes, it
10 didn't make much difference. It all went in
11 the cellar, trust me.

12 Q. Well, were there any holes that
13 were drilled or created by the facility or
14 workers at the facility?

15 A. No. No. Didn't have to.

16 Q. So we're clear on this, these are
17 all preexisting holes that were used?

18 A. Sure. We never done them or
19 anything like that.

20 Q. Was there any effort made to pick
21 up off the floor the material that was
22 squeegeed?

23 A. No. How were you going to do that?

24 Q. You mentioned before that

1 Speedy-Dri was sometimes used in the bench
2 area.

3 A. In the saw area.

4 Q. In the saw area.

5 A. So the saw people wouldn't slip,
6 lose their footing.

7 Q. Would the Speedy-Dri material --
8 let me go back.

9 Would the Speedy-Dri, when
10 mixed with oil in the saw area, be picked up
11 from the floor?

12 A. Sometimes they'd shovel it up, the
13 saw operators would shovel it up and throw it
14 in the barrel, yeah. Sometimes they wouldn't.

15 Q. And if they didn't then the
16 Speedy-Dri would be mixing in with the mineral
17 spirits and oil during the Sunday cleanup?

18 A. Exactly.

19 Q. The drawing process did not -- just
20 to make sure I'm clear on this, the drawing
21 process did not generate any type of metal
22 shavings?

23 A. No.

24 Q. The metal shavings, if any, that

1 were generated were created near or in the
2 bench area and was solely from the sawing?

3 A. No. You would have a certain
4 amount -- going back to the points we made on
5 the tubing.

6 Q. Yes.

7 A. If you didn't get enough oil inside
8 the tubing, when the truck grabbed the points,
9 it would break them off and they would fall
10 inside the bench around the chain. So you
11 always had, around every draw bench, you always
12 had points, which would be six to eight inches
13 long, and that's another thing we used to have
14 to clean up every Sunday, get all them points
15 out of there, because they'd get caught in the
16 chains. And if the chain picked one up it
17 would bring it up and cut you, you could take
18 your arm off or something.

19 Q. With respect to the points that
20 you're describing that either broke off or cut
21 off, they'd go on the floor?

22 A. Oh, yes.

23 Q. And would they be picked up from
24 the floor or be part of the Sunday cleanup

1 activity?

2 A. Be part of a Sunday cleanup
3 activity.

4 Q. Would the points then be pushed to
5 the end?

6 A. No, no. They'd be picked up and
7 thrown in the barrel and taken later on to the
8 baler. You always save your scrap. You
9 weren't allowed to get rid of scrap.

10 Q. Apart from the points, were there
11 metal shavings that were on the floor as a
12 result of the drawing process?

13 A. No.

14 Q. How many employees did it take to
15 do the cleanup operation in four to five hours?

16 A. Well, probably six or eight.

17 Q. And would you normally have six or
18 eight employees?

19 A. Volunteers, sure.

20 Q. If --

21 A. In the old days, yes, sure.
22 Everybody wanted to eat.

23 Q. And when you say the old days, what
24 do you mean by that?

1 A. Early '60s.

2 Q. And this is when you were involved
3 in doing this yourself?

4 A. I was a machine operator, yes.

5 Q. Because later on you didn't do that
6 because you were in management.

7 A. Hell, no. I didn't want to get
8 dirty.

9 Q. Would there be occasions when the
10 cleanup would not occur because six or eight
11 employees did not volunteer to do the work?

12 A. Yes.

13 Q. So you'd skip a week or a couple
14 weeks?

15 A. Yeah, sure.

16 Q. With what sort of frequency would
17 that occur?

18 A. When it got that bad you usually
19 shut down, like say on a Friday afternoon,
20 you'd shut the machines off. You understand,
21 we didn't want to lose production. You were
22 doing volume, you hated to lose production,
23 because you were pushed to make a quota. So
24 when you shut a machine down you were losing

1 tonnage. But when it got so bad you shut
2 down -- like say your shift was over at 3:30,
3 we'd shut down at 2:00 and make every operator
4 clear their work area.

5 Q. Okay. So when the operators
6 would clean their work areas -- let me go back.
7 By the operators, you're talking about the
8 operators of the benches?

9 A. This is in later years when we
10 couldn't get cleanup crews.

11 Q. And the operators were directed to
12 clean up their --

13 A. Work area.

14 Q. -- work areas?

15 A. But their work area is probably a
16 hundred feet long.

17 Q. Which is the whole length of the
18 bench?

19 A. Exactly. Exactly. But some bays
20 later on had two benches in each bay. That's
21 what I told you, they doubled. So you had like
22 two men cleaning their work area.

23 Q. What would those workers do in
24 order to clean their work area?

1 A. Mops and squeegees.

2 Q. Same process?

3 A. Yes.

4 Q. Go over and get a bucket full of
5 mineral spirits?

6 A. And try to mop it up the best they
7 could. I mean you just didn't blatantly get
8 buckets and throw them on the floor. You went
9 over and got a mop pail full for your mop and
10 then you got maybe a twelve-gallon pail full to
11 throw and mop them around, and bring the mop
12 out and mop it around some more and squeegee
13 out the excess into the cellar. I mean nobody
14 was trying to do nothing bad, you know. And it
15 was common practice in the old days to do that.
16 Nobody ever thought nothing about it. You go
17 to any factory around North Adams that's got
18 trouble. You got Mass. MoCA up there sitting
19 on -- if you fell in the cellar of Mass. MoCA
20 you come out glowing.

21 Q. So how do you know this is a common
22 practice for any of these factories up there?

23 A. How about General Electric?

24 Q. I'm asking you.

1 A. Well, you're an educated man. Look
2 at Pittsfield. It's contaminated by General
3 Electric. Sprague Electric contaminated North
4 Adams. It was a practice in the old days.
5 They didn't think nothing's wrong with it. You
6 got a whole section in North Adams, they had to
7 tear every house down over there because it's
8 contaminated with PCBs from Sprague's. People
9 were dying from cancer over there. The land is
10 contaminated. It was practice to do things
11 like that.

12 Q. Okay. And --

13 A. There was nothing thought wrong of
14 it.

15 Q. And the practice that you're
16 talking about is to clean floors?

17 A. To clean your area, sure. Clean
18 your floor, clean your factory. You wanted to
19 work in a clean environment.

20 Q. And this particular practice you're
21 talking about is applying mineral spirits to
22 the floor?

23 A. I'm not saying it's right but I'm
24 saying at the time it was right.

1 Q. At the time it was right?

2 A. You were told to do it, it was the
3 right thing to do. You followed instructions.

4 Q. And you didn't think there was
5 anything wrong with it at the time?

6 A. At the time, no, of course not. Of
7 course not. I mean I know better now but I
8 mean I'm forty years older than I was then. Of
9 course it's wrong, but I didn't know it at the
10 time. Your boss comes out and tells you to mop
11 the floor with mineral spirits, you mop it.

12 Q. So it's fair to say then that this
13 practice of cleaning the floor the way you
14 described it, using mineral spirits to mop it
15 up and then to squeegee it into the floor and
16 to go down to the basement below, that that
17 practice was not against any company policy?

18 A. Oh, no, of course not.

19 Q. And that practice was not contrary
20 to any type of directive from St. Louis or
21 management or anyone within the facility?

22 A. They didn't care how you cleaned it
23 up as long as when the outsiders come in they
24 wanted the place clean. That's all.

1 Q. The practice of cleaning up the
2 floor and causing all of the material to go
3 down the holes into the basement, you didn't
4 understand that to be against any type of
5 industry standard or contrary to any industry
6 standard?

7 A. At the time, no.

8 Q. Yeah.

9 A. No. No, of course not. No more
10 than General Electric thought they were
11 poisoning Pittsfield.

12 Q. And you didn't think that this
13 practice was contrary to law?

14 A. At the time, no. I don't think
15 there was a law at the time.

16 Q. And you didn't contemplate at the
17 time that there might be a future law?

18 A. Of course not.

19 Q. Okay.

20 A. Of course not.

21 Q. With respect to the squeegeeing
22 activities that took place, did you ever go
23 into the basement immediately after that
24 occurred --

1 A. Oh, no.

2 Q. -- to observe what it appeared like
3 in the basement below?

4 A. No. I knew it was -- no. You
5 couldn't walk in there as it was. There was
6 always oil dripping. You didn't want to go in
7 the basement. Never mind if there was mineral
8 spirits running on your head. If someone threw
9 a match at you, you'd explode.

10 Q. Did you as plant manager ever
11 report to St. Louis your observations of the
12 condition of the basement?

13 A. No.

14 Q. Did you have any concerns about the
15 condition of the basement at the time?

16 A. No.

17 Q. Did you have any understanding at
18 the time you worked there that the material
19 that was squeegeed through the floor and into
20 the basement might somehow adversely impact the
21 environment?

22 A. Of course not. If I did, I
23 wouldn't have done it. But, you know, our
24 thinking was, you know, it's going into a dirt

1 floor, it's going to dissolve, you know,
2 disappear. That was everybody's thinking at
3 the time.

4 Q. Okay.

5 MR. COX: I'd like to take a
6 five-minute break right now.

7 THE WITNESS: Okay.

8 MR. COX: You can time me.

9 THE WITNESS: I want to get
10 out of here.

11 MR. COX: I'm almost done.

12 (Break taken)

13 MR. COX: Back on the record.

14 Q. (BY MR. COX) I started to ask you
15 earlier about what you did when you received
16 the subpoena, and if you talked to anyone after
17 you received the subpoena. And I don't think I
18 continued my complete line of questioning
19 there. We went on to talk about your earlier
20 communications leading up to your signing of
21 this document. So let me come back to that
22 question, which is, you were served with a
23 subpoena, which we've marked as --

24 A. Is this the one you're talking